

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,

Plaintiff,

CR. NO. S-97-0383 WBS  
CV NO. S-10-2648 WBS  
Court of Appeals  
No. 10-17637

v. ORDER DENYING CERTIFICATE OF  
APPEALABILITY

JORGE LUIS-SALGADO,

Defendant.

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The court declines to issue a certificate of appealability in connection with defendant's appeal from this court's denial of his "Motion for Reconsideration" filed in this action on October 14, 2010. What defendant wanted the court to reconsider was the denial of his petition for relief under 28 U.S.C. § 2255 filed September 27, 2010. That was the second successive § 2255 defendant filed in this case. His first petition was filed on January 24, 2000, and was denied by this court on September 27, 2000. He was given a certificate of appealability by this court on November 2, 2000, and on October

1 25, 2001, the Ninth Circuit affirmed this court's order denying  
2 his petition.

3 As this court has tried to explain to defendant, before  
4 he may proceed with a second or successive motion under § 2255,  
5 he must receive a certification from the Court of Appeals  
6 pursuant to the provisions of 28 U.S.C. § 2244. 28 U.S.C. §  
7 2255(h). Because it does not appear that Luis-Salgado has  
8 obtained such a certification, this court could not entertain his  
9 latest petition. There is no basis for reasonable judicial minds  
10 to conclude otherwise.

11 Accordingly, a certificate of appealability is DENIED.  
12 The clerk of this court shall forward a copy of this Order, along  
13 with the record in this case, to the Clerk of the United States  
14 Court of Appeals for the Ninth Circuit.

15 DATED: January 28, 2011

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17 WILLIAM B. SHUBB  
18 UNITED STATES DISTRICT JUDGE

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